

23 JAN 2007



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SHAUL OZERI
42 GORINMAN STREET
RAMAT-AVIV
TEL-AVIV
69971 ISRAEL

In re Application of SHALOM et al.
Application No.: 10/535,103
PCT No.: PCT/IL03/00974
Int. Filing: 12 November 2003
Priority Date: 14 November 2002
Attorney Docket No.: 26784U
For: PERISTALTIC PUMP

:
: DECISION ON
:
: RENEWED PETITION
:
: UNDER 37 CFR 1.47(a)
:

Dear Mr. Ozeri:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.


Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

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This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 15 November 2006, to accept the application without the signature of joint inventor, Shaul Ozeri.

BACKGROUND

On 16 May 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee and an executed declaration.

On 26 September 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 26 April 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor Shaul Ozeri. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Shaul Ozeri alleging that Mr. Ozeri refuses to sign the application.

On 15 September 2006, a decision dismissing the petition was mailed indicating that Petitioner had not demonstrated that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/535,103 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and Mr. Ozeri's refusal to sign.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1), (3) and (4).

With respect to Item (2) above, Petitioner has now provided evidence through the statement of Yuval Sharon that Mr. Resheff received a complete copy of the patent application along with declaration and assignment forms to Mr. Ozeri's address. An English translation of the Israeli postal receipt was provided. This evidence is sufficient to conclude that Mr. Ozeri refuses to sign the application.

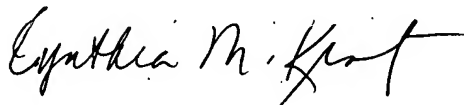
In sum, Petitioner has satisfied Items (1) - (4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is GRANTED.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 16 May 2005. The application has an international filing date of 12 November 2003 under 35 U.S.C. 363, and a date of 16 May 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459